

PATENT
Case No. NL 020328
(79002-12)

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES**

APPELLANT: DENIS JOSEPH CAREL VAN OERS

EXAMINER: WARD, JOHN A.

SERIAL NO.: 10/510,471

ART UNIT: 2875

FILED: OCTOBER 6, 2004

CONFIRMATION NO.: 1573

FOR: LIGHTING UNIT

REPLY BRIEF

Mail Stop **Appeal Brief - Patents**
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

Appellant herewith respectfully presents a Brief on Appeal as follows:

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1. REAL PARTY IN INTEREST

A statement identifying the real party in interest is contained in the Appeal Brief filed on January 2, 2007.

2. RELATED APPEALS AND INTERFERENCES

Appellant and the undersigned attorney are not aware of any other appeals or interferences which will directly affect or be directly affected by or having a bearing on the Board's decision in the pending appeal.

3. STATUS OF CLAIMS

A statement of the status of claims 1-15 is contained in the Appeal Brief filed on January 2, 2007.

4. STATUS OF AMENDMENTS

A statement of the status of amendments after final rejection is contained in the Appeal Brief filed on January 2, 2007.

5. SUMMARY OF THE CLAIMED SUBJECT MATTER

The summary of the invention is contained in the Appeal Brief filed January 2, 2007.

6. GROUND OF REJECTION TO BE REVIEWED ON APPEAL

The grounds of rejection to be review on appeal is contained in the Appeal Brief filed on January 2, 2007.

7. ARGUMENT

The Appellant respectfully reasserts that a careful review of reveals a failure by *Montet*, among other things, to teach or suggest “screening ring” as recited in claims 1, 2, 4-7, 9 and 10.

Specifically, as shown in FIGS. 13-15, *Montet* teaches a cup-shaped axially positioned cap 400 serving as an optical screening means that partly surrounds a light source 150 for intercepting unreflected light rays from light source 150. In particular, *Montet* teaches cap 400 having side walls 420, 426 and 427 fixed to mounting members 429 for purposes of intercepting a portion of the unreflected light rays from light source 150. See, *Montet* at column 8, line 45 to column 9, line 13.

Examiner Ward respectfully asserts that side walls 420, 426 and 427 could be interpreted as screening rings under a broad reasonable interpretation of the claims. This assertion by Examiner Ward is clearly erroneous for a couple of reasons.

First, claims 1, 2, 4-7, 9 and 10 of the present appeal must be given their broadest reasonable interpretation consistent with the specification by those skilled in the art. See, MPEP 2111. The Appellant respectfully asserts that the broadest reasonable interpretation of “characterized in that the cap is surrounded at a distance d by a screening ring which extends over a height h in the direction of the light emission window” as recited in independent claim 1 and “characterized in that the cap is surrounded by a screening ring for intercepting a second portion of unreflected light rays from the light source” as recited independent claim 6 requires a screening ring must be deemed a separate and distinct entity from the cap because a cap cannot surround itself and 35 U.S.C. §112, ¶2 requires a clear distinction between a cap and a screening

ring as claimed. For claim 1, the separate and distinct screening ring must surround the cap by a distance d . For claim 6, the separate and distinct screening can surround the cap by a distance d or about the wall of the cap.

Second, Examiner Ward inappropriately applies the “broadest reasonable interpretation” standard to the teachings of *Monet* when, by anticipation standards, *Monet* must be understood for what *Monet* actually teaches, explicitly or inherently. Specifically, in this case, *Monet* explicitly teaches components 420, 426 and 427 as side walls of cap 400 that are fixed together by mounting members 429, 430, 440 and never implies that components 420, 426 and 427 are anything else but side walls of cap 400. Nonetheless, in an attempt to justify the anticipation rejection, Examiner Ward contradicts the teachings of *Monet* by asserting that a broad reasonable interpretation of *Monet* teaches side walls 420, 426 and 427 as a screening ring surrounding cap 400. This however is a clear contradiction of the teachings of *Monet*, and the Appellant respectfully asserts that *Monet*’s teaching of components 420, 426 and 427 as side walls of cap 400 can not be contradicted by Examiner Ward to justify an otherwise unwarranted anticipation rejection. Specifically, while the identity of terminology is not required between *Monet* and the aforementioned limitations of independent claims 1 and 6 in order to support an assertion by Examiner Ward that *Monet* teaches the aforementioned limitations of independent claims 1 and 6, the Applicant respectfully asserts that Examiner Ward can not conversely disregard the terminology of *Monet* in order to support the assertion that *Monet* teaches the aforementioned limitations of independent claims 1 and 6.

Thus, in view of the failure of *Monet* to teach a separate and distinct screening ring for intercepting unreflected light rays from light source 150 that are not intercepted by the side walls 420, 426 and 427 of cap 400 as taught by *Monet*, the Appellant respectfully requests a withdrawal of the 35 U.S.C. §102(e)/103(a) rejections of claims 1, 2, 4-7, 9 and 10.

Dated: October 22, 2007

Respectfully submitted,

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CLAIMS APPENDIX

1. A lighting unit provided with a concave reflector having an axis of symmetry and with a light emission window bounded by an edge of the reflector which surrounds the axis transversely thereto,
 - an elongate light source which is axially arranged substantially on the axis of symmetry and which is accommodated in a holder opposite the light emission window, and
 - a cup-shaped axially positioned cap serving as an optical screening means that partly surrounds the light source for intercepting unreflected light rays, characterized in that the cap is surrounded at a distance d by a screening ring which extends over a height h in the direction of the light emission window.
2. A lighting unit as claimed in claim 1, characterized in that, the screening ring extends at the side facing the holder up to a plane transverse to the axis of symmetry and defined by the cup-shaped cap.
4. A lighting unit as claimed in claim 1, wherein the reflector and the light source are indetachably integrated into a lamp.
5. A lighting unit as claimed in claim 4, characterized in that the lamp is a metal halide lamp with a ceramic discharge vessel.

6. A lighting unit provided with a concave reflector having an axis of symmetry and with a light emission window bounded by an edge of the reflector which surrounds the axis transversely thereto,

- an elongate light source which is axially arranged substantially on the axis of symmetry and which is accommodated in a holder opposite the light emission window, and
- a cup-shaped axially positioned cap serving as an optical screening means that partly surrounds the light source for intercepting a first portion of unreflected light rays from the light source, characterized in that the cap is surrounded by a screening ring for intercepting a second portion of unreflected light rays from the light source.

7. A lighting unit as claimed in claim 6, characterized in that, the screening ring extends at the side facing the holder up to a plane transverse to the axis of symmetry and defined by the cup-shaped cap.

9. A lighting unit as claimed in claim 6, wherein the reflector and the light source are indetachably integrated into a lamp.

10. A lighting unit as claimed in claim 9, characterized in that the lamp is a metal halide lamp with a ceramic discharge vessel.

EVIDENCE APPENDIX

None.

RELATED PROCEEDINGS APPENDIX

None.